

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DAVID MALONE,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

CASE NO. 3:22-cv-05230-TL

ORDER TO SHOW CAUSE

On August 4, 2022, based on Defendant's stipulated motion for remand (Dkt. No. 10), the Court entered final judgment on this case, ordering the Commissioner of Social Security's decision be reversed and remanded for further administrative proceedings under sentence four of 42 U.S.C. § 405(g). Dkt. No. 12. On October 27, 2022, Plaintiff timely filed an unstipulated motion for attorney fees under the Equal Access to Justice Act ("EAJA"). *See* Dkt. No. 16. In an accompanying declaration, Plaintiff's counsel included an itemized statement of his time spent in the case which shows that his total fees amount to \$4,851.14. *See* Dkt. No. 17 at 2. On November 2, 2022, Defendant filed a stipulated motion after "the parties engaged in good faith negotiations" and agreed that Plaintiff is the prevailing party, the position of the Commissioner was not substantially justified, and "[a]n award of \$850.00 constitutes reasonable attorney fees in this matter." Dkt. No. 19 at 1. The stipulated motion did not include an itemized statement,

1 though Plaintiff's counsel has since clarified for the Court that the stipulated motion was meant
2 to supersede his prior motion for attorney fees.

3 On December 20, 2022, the Court issued an order terminating Plaintiff's unstipulated
4 motion for attorney fees (Dkt. No. 16) as moot and directing Plaintiff to supplement the
5 stipulated motion (Dkt. No. 19) as required under the EAJA with an itemized statement of the
6 actual time expended and an explanation as to how the Parties arrived at the negotiated fee award
7 of \$850.00 by January 6, 2023. Dkt. No. 20. As of January 11, 2023, Plaintiff has not complied
8 with the Court's Order.

9 Plaintiff is ORDERED TO SHOW CAUSE by January 17, 2023, why the requested itemized
10 statement and explanation have not been submitted and is further ORDERED to submit that
11 statement and explanation by the same date. Failure to show cause may result in the denial of the
12 stipulated motion.

13 Dated this 11th day of January 2023.

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16 Tana Lin
17 United States District Judge
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